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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2008-220

13 LORI DIANE CANTRELL AKA LORI DIANE
14 FAHSBENDER
9812 Vanessa Avenue
15 Bakersfield, CA 93312

A C C U S A T I O N

16 Registered Nurse License No. 509752

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Accusation solely
20 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about March 20, 1995, the Board of Registered Nursing,
23 Department of Consumer Affairs issued Registered Nurse License No. 509752 to Lori Diane
24 Cantrell aka Lori Diane Fahsbender ("Respondent"). The Registered Nurse License was in full
25 force and effect at all times relevant to the charges brought herein and will expire on March 31,
26 2009, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board of Registered Nursing,

1 Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated.

3 STATUTORY PROVISIONS

4 4. Section 2750 provides, in pertinent part, that the Board may discipline any
5 licensee, including a licensee holding a temporary or an inactive license, for any reason provided
6 in Article 3 (commencing with section 2750) of the Nursing Practice Act.

7 5. Section 2764 provides, in pertinent part, that the expiration of a license
8 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
9 licensee or to render a decision imposing discipline on the license. Under section 2811,
10 subdivision (b), the Board may renew an expired license at any time within eight years after the
11 expiration.

12 6. Section 2761 states:

13 "The board may take disciplinary action against a certified or licensed nurse or
14 deny an application for a certificate or license for any of the following:

15 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

16 ...

17 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
18 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
19 Nursing Practice Act] or regulations adopted pursuant to it.

20 ...

21 "(f) Conviction of a felony or of any offense substantially related to the
22 qualifications, functions, and duties of a registered nurse, in which event the record of the
23 conviction shall be conclusive evidence thereof.

24 7. Section 2762 states:

25 "In addition to other acts constituting unprofessional conduct within the meaning
26 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
27 under this chapter to do any of the following:

28 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a

1 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
2 or administer to another, any controlled substance as defined in Division 10 (commencing with
3 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
4 defined in Section 4022.

5 “(b) Use any controlled substance as defined in Division 10 (commencing with
6 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
7 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
8 injurious to himself or herself, any other person, or the public or to the extent that such use
9 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
10 license.”

11 “(c) Be convicted of a criminal offense involving the prescription, consumption,
12 or self-administration of any of the substances described in subdivisions (a) and (b) of this
13 section, or the possession of, or falsification of a record pertaining to, the substances described in
14 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
15 thereof.”

16 8. Section 490 states:

17 “A board may suspend or revoke a license on the ground that the licensee has been
18 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
19 of the business or profession for which the license was issued. A conviction within the meaning
20 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
21 contendere. Any action which a board is permitted to take following the establishment of a
22 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
23 been affirmed on appeal, or when an order granting probation is made suspending the imposition
24 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
25 Penal Code.”

26 9. Section 118, subdivision (b) provides that the suspension, expiration,
27 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
28 disciplinary action during the period within which the license may be renewed, restored, reissued

1 or reinstated.

2 10. Section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations
4 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 11. **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

7 a. "Methamphetamine" is a Schedule II controlled substances as defined in
8 Health and Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug
9 pursuant to Business and Professions Code section 4022.

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Convictions of Substantially Related Crimes)

12 12. Respondent is subject to disciplinary action under sections 490 and
13 2761(d) and (f) in that she was convicted of substantially related crimes as follows:

14 a. On or around October 12, 2007, Respondent pled nolo contendere to one
15 misdemeanor count of violating Health and Safety Code section 11550(A) (Unlawful Use of a
16 Controlled Substance) in the Superior Court for the State of California (Bakersfield Judicial
17 District) in a case entitled "*The People of the State of California v. Lori Diane Cantrell, aka Lori*
18 *Diane Fahsbender*", Case No. BM718893A. The circumstances are that on or around September
19 29, 2007, Bakersfield police officers responded to a call to "check the welfare" of a mentally
20 disturbed person. After arriving at the scene, officers observed Respondent to be hallucinating
21 and displaying objective symptoms of being under the influence of a central nervous system
22 stimulant. When asked if she had used any controlled substances that day, Respondent stated
23 "yes, I used methamphetamine earlier in the morning." A field test was subsequently conducted
24 on Respondent during which she displayed a white coating on her tongue, eye-lid tremors,
25 hippus, a resting pulse rate of 90 BPM, rapid speech, slow rebound dilation, and bruxism.
26 Officers also observed a fresh puncture mark in the bend of her right arm. Officers concluded
27 that Respondent was under the influence of a central nervous system stimulant and arrested her.
28

1 b. On or around September 15, 2006, Respondent pled nolo contendere to
2 one misdemeanor count of violating Health and Safety Code section 11550(A) (Unlawful Use of
3 a Controlled Substance) in the Superior Court for the State of California (Bakersfield Judicial
4 District) in a case entitled "*The People of the State of California v. Lori Diane Cantrell, aka Lori*
5 *Diane Fahsbender*", Case No. BM695044A. The circumstances are that on or around June 29,
6 2006, Bakersfield police officers responded to complaints regarding a peace disturbance. After
7 arriving at the scene, officers observed Respondent to be "nervous and fidgety". When asked if
8 she had used any illegal drugs that day, Respondent stated "no, I used crystal meth a few days
9 ago but I should be clean." A field test was subsequently conducted on Respondent during which
10 she displayed rapid eyelid tremors, dilated pupils, and an elevated pulse rate. She also exhibited
11 several injection sites on her right elbow. Officers concluded that Respondent was under the
12 influence of a central nervous system stimulant and arrested her.

13 SECOND CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct - Drug Related Conviction)

15 13. Respondent is subject to disciplinary action under sections 2761(d), and
16 2762(c), in that on or about October 12, 2007 and again on September 15, 2006, Respondent was
17 convicted of violating Health and Safety Code section 11550(A) (Unlawful Use of a Controlled
18 Substance) as further set forth in paragraph 12.

19 THIRD CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct - Use of Controlled Substances)

21 14. Respondent is subject to disciplinary action pursuant to sections 2761(d),
22 and 2762(b), in that Respondent used controlled substances in a manner dangerous or injurious to
23 herself as further set forth in paragraph 12.

24 FOURTH CAUSE FOR DISCIPLINE

25 (Unprofessional Conduct - Unlawful Possession of Narcotics)

26 15. Respondent is subject to disciplinary action under sections 2761(a) and (d)
27 and 2762(a), in that on or around September 27, 2007 and again in June, 2006, Respondent was
28 in possession of controlled substances, as further set forth in paragraph 12.

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1. Revoking or suspending Registered Nurse License No. 509752, issued to
Lori Diane Cantrell aka Lori Diane Fahsbender;

3. Taking such other and further action as deemed necessary and proper.

Dist. Hocking for
RUTH ANN TERRY, M.P.H, R.N
Executive Officer
Board of Registered Nursing
State of California
Complainant

cantrell accusation.wpd